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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,556	10/10/2001	J.J. Garcia-Luna-Aceves	UC2000-355-2	7482
8156	7590	12/22/2005	[REDACTED]	[REDACTED] EXAMINER
JOHN P. O'BANION O'BANION & RITCHEY LLP 400 CAPITOL MALL SUITE 1550 SACRAMENTO, CA 95814			[REDACTED] WILSON, ROBERT W	[REDACTED] ART UNIT
			[REDACTED] 2661	PAPER NUMBER

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/975,556	GARCIA-LUNA-ACEVES ET AL.	
	Examiner	Art Unit	
	Robert W. Wilson	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 October 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 3-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 3-60 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 October 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 3-60 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Referring to claims 3, 18, 37, & 47; these claims appear to perform process on a computer via method which implements a mathematical formula in the abstract. A possible tangible result of determining loop-free multipath routes is in the preamble of the claims with no further references in the claims so it is an intended use; thus, the claim limitations cover every application under the sun that uses this mathematical formula. Since the claims cover every substantial application under the sun utilizing this mathematical formula; therefore, therefore, these claims pre-empt a 101 judicial exception and are rejected as being non-statutory.

Response to Amendment

2. Applicant's arguments with respect to claims 3-60 have been considered but are moot in view of the new ground(s) of rejection.

Applicant traverses the previous objections to the drawings. The examiner respectively disagrees with the applicant argument that Figures 3A, 3B, 4A, 4B, & 4C do not need labels. In response to the applicant arguments, applicant attention is directed to MPEP § 608.02(e) Examiner Determines Completeness and Consistency of Drawings. Thus, it is clear in accordance with MPEP which states that the "examiner", <NOT the applicant>, determines the completeness and consistency of drawings. In this case, examiner has determined that the drawings are incomplete.

The applicant attention is also directed to **37 § C.F.R 1.84 [5(o)]** which states “**Suitable descriptive legends may be used subject to approval by the Office, or may be required by the examiner where necessary for understanding of the drawing.** They should contain as few words as possible.” In this case, examiner is clearly requiring the applicant to include “suitable descriptive legends” that is necessary for the understanding for the drawings since the drawings are incomplete.

Moreover, the examiner is requiring this application to be in the best presentable and complete form for the public including patent community, who will appreciate the completeness of this application once published or issued. Examiner wonders why the applicant is arguing or traversing the drawing objections since by traversing the objection will remain the application in an incomplete or un-presentable form.

Therefore, the objections to the drawings stand objected as set forth previous and above.

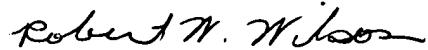
The objection to the drawings will not be held in abeyance

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Wilson whose telephone number is 571/272-3075. The examiner can normally be reached on M-F (8:00-4:30).

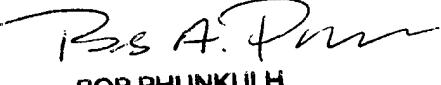
If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Chau T. Nguyen can be reached on 571/272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert W Wilson
Examiner
Art Unit 2661

RWW
12/14/05



BOB PHUNKULH
PRIMARY EXAMINER